IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

CRL.A.No. 109 of 2000()

(ST.284/1997 of COURT OF THE JUDL.MAGISTRATE OF 1ST CLASS, DEVIKULAM)
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APPELLANT: COMPLAINANT:

SECRETARY,
MARAYOOR GRAMA PANCHAYATH,
MARAYOOR.

BY ADV. SRI.B.RAMAN PILLAI
SRI.GEORGE JACOB (JOSE)

RESPONDENTS: ACCUSED & STATE:
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1. **G.SARASWATHY,**
W/O.GUNASEKHARAN, VI/161,
MANNARAPPALLY BHAGOM, MARAYOOR KARA,
MARAYOOR VILLAGE.

2. **STATE OF KERALA, REPRESENTED BY THE**
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.R.DIVAKARAN
BY PUBLIC PROSECUTOR SRI. C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

K.R. UDAYABHANU, J.

CRL.A.NO. 109 OF 2000

DATED THIS THE25th September 2007

JUDGMENT

The appellant is the complainant in S.T.No.284/1997 of the Court of Judicial Magistrate of First Class, Devikulam with respect to the offence under Section 74 of the Kerala Panchayat Act read with Rule 26 of the Kerala Panchayat (Taxation and Appeal) Rules. The total amount due mentioned Is Rs.18,528/-. The appellant has sought for setting aside the order of the court below acquitting the accused under Section 257 Cr.P.C. as the complainant was absent. It is submitted that the complainant, i.e. the Secretary of the Panchayat on the particular day WAS engaged in attending an interview for recruitment for teachers to the English medium school run by the Panchayat and that he had applied to excuse his absence. Copy of the proceedings paper mentions that the "complainant absent. Allowed." In the circumstances, it appears that the case of the complainant/appellant that he had applied and the application was allowed appears to be true. In the circumstances the order of the court below acquitting the accused under Section 257 Cr.P.C. is set aside. The court below is directed to permit the appellant/complainant

to appear before the court below and dispose of the case on merits. The parties are directed to appear before the court below on 30-10-2007.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.A. NO. 109 OF 2000

JUDGMENT

25-9-2007